

1 Adopt 2 Cal. Code Regs. Section 18225.7 to read:

2 **18225.7. Made at the behest of; coordinated expenditures.**

3 (a) For purposes of this title, “made at the behest of” refers to an expenditure made under  
4 the control or at the request or suggestion of, with the express prior consent of, or otherwise in  
5 coordination with, a candidate. Throughout this section, expenditures “in coordination with” a  
6 candidate include expenditures made through any arrangement with, or in consultation, concert or  
7 cooperation with, a candidate. As used in this section, the term “candidate” includes a candidate’s  
8 controlled committee and the agent of either, when the agent is acting within the course and scope  
9 of his or her agency. An agent of a candidate or controlled committee is any person who has actual  
10 oral or written authority, whether express or implied, to make or to authorize another person to  
11 make expenditures on behalf of the candidate or committee, or any person who serves the  
12 candidate or committee in an executive, or policymaking capacity, or has provided the candidate  
13 with non-ministerial, campaign related services pertaining to campaign strategy or advocacy,  
14 including polling or other campaign research, media consulting, advertising or direct mail  
15 planning, or fundraising services [Decision 1: , for compensation / , with or without  
16 compensation].

17 (b) An expenditure made under the control of, at the request or suggestion of, with the  
18 express prior consent of, or otherwise in coordination with a candidate, is a “contribution” under  
19 Government Code sections 82015 and 85500(b), subject to any exceptions provided by  
20 Government Code section 82015 and 2 Cal. Code Regs. section 18215.

21 (c) An expenditure is coordinated with a candidate if  
22 (1) the expenditure is made by or through the candidate, or  
23 (2) the expenditure is made by a person, other than a candidate, to fund a communication  
24 which is created, produced or disseminated

1        (A) at the request or suggestion of a candidate who is clearly identified in the  
2        communication, as defined in 2 Cal. Code Regs. section 18225(b)(1), or whose opponent is  
3        similarly identified in the communication, or

4        (B) after a candidate has made or participated in making any decision regarding the  
5        content, timing, location, mode, intended audience, volume of distribution, or frequency of  
6        placement of a communication relating to a clearly identified candidate, or

7        (C) after discussion or negotiation between a candidate and the creator, producer or  
8        distributor of a communication relating to a clearly identified candidate, or the person paying for  
9        that communication, regarding the content, timing, location, mode, intended audience, volume of  
10       distribution or frequency of placement of that communication, the result of which is agreement on  
11       any of these topics.

12       **[Decision 2: (d) In addition to the rule provided in subdivision (b) of this regulation,**  
13       **there shall be a rebuttable presumption that an expenditure for a communication relating to clearly**  
14       **identified candidates is coordinated with a candidate when**

15       (1) the person making the expenditure is serving, or has served [Decision 2a: during  
16       the twelve months/six months prior to the expenditure/during the election cycle (as defined at  
17       Government Code § 85204) within which the expenditure is made,] in a formal executive or  
18       policymaking position with the candidate, or has provided the candidate with non-ministerial,  
19       campaign related services pertaining to campaign strategy or advocacy, including polling or other  
20       campaign research, media consulting, advertising or direct mail planning, or fundraising services,  
21       or

22       (2) the person making the expenditure has retained the professional services of a person  
23       who is providing or, [Decision 2b: during the twelve months/six months prior to the  
24       expenditure/during the election cycle (as defined at Government Code § 85204) within which the

expenditure is made,] has provided the candidate with non-ministerial, campaign related services pertaining to campaign strategy or advocacy, including polling or other campaign research, media consulting, advertising or direct mail planning, or fundraising services, [Decision 2c: and the person so retained is involved in decisions regarding the expenditure,] or

(3) the communication is based on information, not generally available to the public, regarding the candidate's campaign needs or plans, furnished to the person making the expenditure by the candidate, or

(4) the communication replicates, reproduces, republishes, or disseminates, in whole or in substantial part, a communication designed, produced, paid for or distributed by the candidate

**[Decision 2d: ]or,**

(5) prior to publication or dissemination of the communication, the person making the expenditure informs the candidate for whose benefit the expenditure is made about the communication's contents, timing, location, mode, or frequency of dissemination or distribution, or intended audience, and the candidate signifies assent to the expenditure].]

(e) An expenditure is not coordinated with a candidate merely when

(1) A person interviews a candidate on issues affecting the person making the expenditure, provided that prior to making the expenditure, that person has not communicated with the candidate or the candidate's agents concerning the expenditure], or

(2) The person making the expenditure has obtained a photograph, biography, position paper, press release, or similar material from the candidate.

**[Decision 3: (f) An expenditure is not made "at the behest of" a candidate when the expenditure is made solely in response to a general request for support made by the candidate before a public gathering, in a mass mailing sent to members of the public, or published through mass media such as a newspaper, radio, television, or the internet.]**

- 1 NOTE: Authority cited: Section 83112, Government Code.
- 2 Reference: Sections 82015, 82025, 82031, 85303 and 85500, Government Code.